UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

JUAN MANUEL HERNANDEZ,	§	
	§	
	§	
VS.	§	CIVIL ACTION NO. 5:20-CV-163
	§	CRIMINAL ACTION NO. 5:18-CR-546-1
	§	
UNITED STATES OF AMERICA	§	

ORDER

United States Magistrate Judge John A. Kazen entered a Report and Recommendation in accordance with 28 U.S.C. § 636(b)(3), recommending that the Court deny Petitioner's Section 2255 Motion (Civ. Dkt. No. 1) without prejudice and deny Petitioner a certificate of appealability (Civ. Dkt. No. 11). Because Petitioner did not receive a timely copy of the Report and Recommendation, the Court extended the deadline to object to the Magistrate Judge's findings (Civ. Dkt. No. 13). The Court has now received Petitioner's objections (Civ. Dkt. No. 15).

The Court conducts a *de novo* review of Petitioner's objections and applies a plain-error standard of review for the remainder of the Magistrate Judge's findings and recommendations. The Court finds that Petitioner's objections merely restate the arguments already reviewed by the Magistrate Judge and fail to address the fact that Petitioner's motion is an unauthorized successive application for relief under Section 2255. Having considered the entire record, the Court overrules Defendant's objections and hereby **ADOPTS** the Report and Recommendation (Civ. Dkt. No. 11) as the findings and opinion of the Court. Accordingly, Petitioner's Section 2255 Motion (Civ.

Dkt. No. 1) is **DENIED WITHOUT PREJUDICE** to refiling should petitioner secure the necessary authorization from the United States Court of Appeals for the Fifth Circuit. Further, a certificate of appealability is **DENIED**. The Clerk of Court is **DIRECTED** to mail Petitioner a copy of this **ORDER**, return receipt requested, at the address indicated in Petitioner's most recent filing.

It is so **ORDERED**.

SIGNED October 19, 2021.

Marina Garcia Marmolejo
United States District Judge